IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 13160 of 2007(N)

PETITIONERS:

1. **THE SECRETARIAT ASSISTANTS' AND OFFICERS' FORUM REPRESENTED BY ITS GENERAL SECRETARY SRI.N.K.SREEKUMAR (A SOCIETY REGISTERED UNDER THE TRAVANCORE-COCHIN HAVING ITS REGISTERED OFFICE AT AMBAADI PADAYANI ROAD, VATTIYOORKAVU, TRIVANDRUM.**
2. **SAJI.B SELECTION GRADE ASSISTANT, SC/ST(G) DEPARTMENT, SECRETARIAT, TRIVANDRUM.**
3. **HARIKUMAR.K., ASSISTANT, ELECTION DEPARTMENT, SECRETARIAT, TRIVANDRUM.**
4. **SREELAL.R., SENIOR GRADE ASSISTANT, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, TRIVANDRUM.**
5. **G.AJAY KUMAR, ASSISTANT FOREST AND WILD LIFE (A) DEPARTMENT, SECRETARIAT, TRIVANDRUM.**

BY ADV. SRI.S.RAMESH BABU.

RESPONDENTS:

1. **STATE OF KERALA, REPRERSENTED BY ITS CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.**
2. **G.SUKUMARAN NAIR, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

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3. **S.PADMAKUMARI, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

4. **B.SURESH KUMAR, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

5. **P.C.SUNILKUMAR, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

6. **P.SUBHASHINI THANKACHI, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

7. **P.JAYAKUMARI, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

8. **SREEKALA T.P., ASSISTANT, SECRETARIAT, TRIVANDRUM.**

9. **A.VIJAYAN, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

10. **RENUKADEVI .N.E., ASSISTANT, SECRETARIAT, TRIVANDRUM.**

11. **GEETHAKUMARI.V.S., ASSISTANT, SECRETARIAT, TRIVANDRUM.**

12. **S.MURALEEDHARAN PILLAI, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

13. **M.S.JALAJA KUMARI, ASSISTANT, SECRETARIAT, TRIVANDRUM.**

14. **CHITHRA NAIR A.K., ASSISTANT, SECRETARIAT, TRIVANDRUM.**

BY GOVT. PLEADER SRI. BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 13160 of 2007-N

Dated this the 11th day of June, 2007.

J U D G M E N T

The petitioners 2 to 5 are Assistants in different grades working in the Administrative Secretariat. The first petitioner is their Association. They have approached this Court, mainly challenging Ext.P8 order and consequential proceedings Exts.P10 and P11. Ext.P8 is a Government Order containing a proposal for amending the Special Rules. So, in that way, the writ petition is premature. Further, the main grievance canvassed against Ext.P8 by the learned counsel for the petitioners before me is the provision for allowing the Typists and Confidential Assistants to be posted as Assistants, on completion of 6 years of service, provided they have qualification prescribed under the Special Rules for category change as Assistant. The erstwhile category of Assistant Grade-I has been abolished and the category of Assistant Grade II and Grade I were merged into one category ie. Assistant. The said provision is substantially similar to the earlier provisions concerning category change of Typists and Confidential Assistants to Assistant Grade-I. Earlier they could apply, on completion of 10 years. It is pointed out that, now they can apply on completion of 6 years.

But, the same will not in any way affect the seniority or promotion chances of the existing Assistants in different grades. The only thing is that Typists and Confidential Assistants become Assistants early and they will get sufficient experience before their turn arises for further promotion. I think that will be in public interest to have such an amendment. Since no prejudice is caused to the writ petitioners by reason of the lowering of the service qualification for category change, it is not necessary to entertain this writ petition, challenging Ext.P8.

2. The learned counsel for the petitioners pointed out that regarding appointment by transfer to the post of Section Officers, they have grievance regarding the concession granted to the existing incumbents in the post of Typists and Confidential Assistants as on 25-3-2006. The learned counsel for the petitioners points out that the Fifth Pay Commission recommended clearing of suitability test for graduates also. But, as per existing Rules, clearance of suitability test is obligatory only for non-graduates. So, the Government decided to follow the existing pattern for the existing incumbents as on 25-3-2006, in service. I feel that the decision to continue the existing rules and not to entertain all those conditions as suggested by the Pay Commission cannot be said to be arbitrary or irrational.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS